6 NYCRR Part 242, CO_2 Budget Trading Program

6 NYCRR Part 200, General Provisions

21 NYCRR Part 507, CO_2 Allowance Auction Program

Regulatory Flexibility Analysis for Small Businesses and Local Governments

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States and is the first mandatory, market-based carbon dioxide (CO_2) emissions reduction program in the United States. Since its inception in 2008, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce emissions that cause climate change. Recently, New York along with the Participating States, completed a comprehensive program review and announced a proposal to lower the regional emissions cap established under RGGI to approximately 69.8 million tons in 2027, declining about 89%, relative to the 2024 cap, through 2037. Accordingly, New York and the Participating States committed to propose revisions, pursuant to state-specific regulatory processes, to their respective CO_2 Budget Trading Programs to further reduce CO_2 emissions from power plants in the region. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) has proposed revisions to 6 NYCRR Part 242, CO_2 Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions. As the auction administrator, the New York State Energy Research and Development Authority ("NYSERDA") has proposed revisions to the CO_2 Allowance Auction Program as set forth in Part 507, which are designed to complement revisions proposed by the Department. The revisions to the Program continue to ensure significant ancillary public health benefits by simultaneously reducing CO_2 and other harmful pollutants.

EFFECT ON SMALL BUSINESSES AND LOCAL GOVERNMENTS

No small businesses would be directly affected by the adoption of the Program revisions. The only local governments affected by the revisions to the Program would be the Jamestown Board of Public Utilities (JBPU),

a municipally owned utility which owns and operates the S. A. Carlson Generating Station (SACGS), and the Village of Freeport, which owns and operates the Freeport Power Plant No. 2 (FPPN2). These two local governments are currently complying with the regulation and would continue to experience the impact of the Program in relation to their continued operation of the listed power plants. The costs associated with the revisions to the Program would be similar to those incurred by other privately held sources and would depend upon each entity's need to solicit consultants or contractors for its compliance.

COMPLIANCE REQUIREMENTS

The proposed rule lowers the number of allowances available for compliance each year 2027 through 2037, increases the volume of cost containment reserve allowances and establishes a second tier of these allowances at a higher reserve price, and additional measures as more fully described in the accompanying Regulatory Impact Statement. The JBPU, as owner and operator of the SACGS, and the Village of Freeport, as owner and operator of Freeport Power Plant No. 2, would need to continue to comply with the Program. The local governments have no new compliance requirements, the impact of the revisions to the regulations will mostly be felt through the reduction in regionally available allowances as the regional cap decreases through 2037. This impact is lowered by the increased availability of cost containment reserve allowances.

PROFESSIONAL SERVICES

There are two local governments affected by the revisions to the Program, the Jamestown Board of Public Utilities (JBPU) and the Village of Freeport, and like privately held sources, they may need to solicit professional consultants and contractors for continued compliance with the Program. The revisions to the Program are not anticipated to change the professional services required by local governments. The Department also confirmed that no capital improvements to plant operations will be needed for JBPU's or the Village of Freeport's compliance with the Program revisions.

COSTS

A limited number of local governments will incur costs. The Jamestown Board of Public Utilities (JBPU), a municipally owned utility, owns and operates the S.A. Carlson Generating Station (SACGS). The Village of Freeport owns and operates Freeport Power Plant No. 2(FPPN2). Emissions monitoring at SACGS and FPPN2 currently meets the monitoring provisions of the Program, and no additional monitoring costs will be incurred under the revisions to the Program. Notwithstanding this, just like any other owner or operator of any source subject to the Program, the JBPU and the Village of Freeport will need to purchase CO_2 allowances equal to the number of tons of CO_2 emitted. The Department limited the analysis of costs to the purchase of allowances to comply with the Program and assumed that the costs of allowances will be between $8.55 in 2028 and $28.20 in 2037 (in 2022 $) per ton for CO_2 under the proposed revisions. To estimate total costs for SACGS and FPPN2, the Department reviewed 2022 through 2024 emissions from affected units. An estimate of compliance costs, based on these emissions values, indicates that purchasing allowances to cover emissions would range between a low of $165,955 and a high of $1.2 million annually for SACGS and between a low of $125,223 and a high of $970,672 annually for FPPN2. These costs will eventually be passed on to the consumers of electricity from the JBPU and the Village of Freeport. The estimated compliance costs in this paragraph are costs associated with compliance with the Program overall, meaning that the incremental cost of compliance associated with the revisions to the Program would be less. The Department limited the analysis of existing costs by evaluating recent auction prices and CO_2 emissions for these two local governments. The auctions conducted from 2022 through 2024 averaged $15.61 per allowance. If SACGS and FPPN2 acquired allowances at auction, the cost to cover their emissions under the existing Program would range from $302,990 to $651,420 and $228,624 to $537,311 respectively for each year based on the range of emissions described earlier. These existing Program costs are within the range of modeled costs for the Program revisions, the low estimate of costs for the Program revisions is about 45% lower than existing costs and the high estimate of costs for the Program revisions is about 80%

higher than the existing costs. The Program administration costs for these local governments are not anticipated to change due to the Program revisions.

The JBPU and the Village of Freeport can utilize the flexibility inherent under the Program to comply. Since the program has a three-year control period with the full compliance obligation at the end of the control period and 50% compliance obligation after each of the first two years of the control period, the emission peaks associated with electricity generation will be averaged out and more long-term planning options will be available to SACGS and FPPN2. No small businesses would be directly affected by the adoption of the revisions.

MINIMIZING ADVERSE IMPACTS

The promulgation of the revisions to the Program and the amendments to 6 NYCRR Part 200 do not directly affect small businesses. Only two local governments are affected by the revisions to the Program, the JBPU and the Village of Freeport. The revisions to the Program constitute an emissions allowance-based cap-and-invest program. As the proposed regulations continue an existing Program and no new small business or local governments are expected to be directly impacted the revised regulations, the impacts of the Program continue to be minimized by the nature of a cap-and-invest program. Cap-and-invest systems are the most cost-effective means for implementing emission reductions from large stationary sources, as these systems allow full utilization of previously purchased allowances, multiyear compliance periods, and clear announcements of the availability of allowances in the near future. By continuing to implement the Program and Program revisions, the Department will minimize any associated adverse economic impacts on the JBPU and the Village of Freeport. Electricity consumers benefit from the investment of proceeds generated through the auction of allowances. These investments serve to minimize the impact of the Program by promoting energy efficiency and greenhouse gas abatement among other investments. As more fully described in the Regulatory Impact Statement monthly bills

are expected to be insignificantly lower under the revised Program compared with existing costs and the historic investments of proceeds have resulted in annual bill savings of about $732[1].

SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The Participating States, including New York, initiated the most recent program review in the Fall of 2021, with the announcement of the first stakeholder meetings and concluded the process in July 2025. The Participating States and RGGI Incorporated (RGGI, Inc.)[2] conducted a robust stakeholder outreach process including six stakeholder meetings and a public comment period. This stakeholder outreach revealed no additional burdens on small businesses and local governments due to the program revisions. All stakeholder events were open to the public and recordings are available on the RGGI, Inc. website. On July 3, 2025, the Participating States released the final version of the Updated Model Rule, which contained additional updates based on stakeholder feedback received. This regional feedback, as well as the Model Rule itself have been considered and incorporated by the Department in developing the revisions to the Program. The Department will ensure public input on the proposed revisions to the regulations by issuing public notices in the State Register and the Department's Environmental Notice Bulletin; holding a comment period of at least 60 days and conducting public hearings. Interested parties, including small businesses and local governments, will have the opportunity to submit written comments and participate in the public hearings. The Department will also post relevant rule making documents on their website for public access.

CURE PERIOD OF AMELIORATIVE ACTION

[1] https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Publications/Energy-Analysis/RGGI/RGGI-StatusReport-Q2-24-final.pdf

[2] RGGI, Inc. is a 501(c)(3) non-profit corporation created to provide technical and administrative services to the Participating States.

The cap reduction and other key elements of the revisions to the Program will be effective beginning in 2027. The revised Program will require affected sources already subject to the Program to continue to comply, as well as units that commence operations after the effective date of the regulation. No additional cure period or other additional opportunity for ameliorative action is included in the Program revisions. First, most sources that will be subject to the Program revisions are already subject to the existing Program and have been since the regulation was initially promulgated in 2008 (or since they commenced operation). This includes the SACGS and FPPN2. Second, because of the cap-and-invest nature the Program and the continuance of the interim and full compliance deadlines, sources have flexibility to emit any amount of CO_2 during a control period, provided such emissions are covered by an adequate amount of CO_2 allowances by the relevant CO_2 allowance transfer deadline.